

Sixth Appellate District

San Jose, California

TUESDAY, FEBRUARY 18, 2003

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Wunderlich, J.; and Jane V. Flor, Deputy Clerk.

H023107 PEOPLE v. SMALLEY

Cause called and argued by Meredith Fahn appearing for Appellant and by Amy Haddix, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023802 PEOPLE v. KIEL

Cause called and argued by James W. Duffy appearing for Appellant and by Margo J. Yu, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023357 PEOPLE v. GHADERI

Cause called and argued by Jean F. Matulis appearing for Appellant and by George F. Hindall, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Rushing, P.J. leaves the bench and Elia, J. takes the bench.

H023113 PRINCE v. MALNICK, et al.

Cause called and argued by Bryce C. Anderson appearing for Appellants and by Daniel C. Payne, Jr. appearing for Respondent. Cause ordered submitted.

H022924 LAI v. KIMURA

Cause called and argued by Van Lai appearing in pro per and by Jesse F. Ruiz appearing for Respondent. Cause ordered submitted.

H022872 SIM v. SAN JOSE APPEALS HEARING BOARD, et al.

Cause called and argued by Francine Tone appearing for Appellant and by Michael A. Churchill, Deputy City Attorney, appearing for Respondents. Cause ordered submitted. Court recesses until 1:30 p.m.

Sixth Appellate District

San Jose, California

Tuesday, February 18, 2003 (Continued)

H024585 PEOPLE v. PFEISTER

The judgment is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J.,
Wunderlich, J.)
Filed February 18, 2003

H023800 PEOPLE v. PARTIDA

Appellant's conviction on count three in case No. CC092383
is reversed. The Clerk of the Santa Clara County Superior Court
is directed to amend the abstract of judgment accordingly and
forward a copy to the Department of Corrections. In all other
respects the judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed February 18, 2003

H022364 WHENMOUTH v. STATE OF CALIFORNIA; HICKS v. STATE OF
CALIFORNIA

By the Court*:

Respondent's petition for rehearing is granted.
Filed: February 18, 2003
*Before Rushing, P.J., Bamattre-Manoukian, J. and Mihara, J.

H021791 PEOPLE V. CAMARGO

The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Rushing, P.J., Bamattre-Manoukian,
J.)
Filed February 18, 2003

The Court met in its courtroom at 333 West Santa Clara
Street, Suite 1060, San Jose, California. Present: Rushing,
P.J.; Premo, J.; Elia, J.; and Beth Miller, Deputy Clerk.

H024021 PEOPLE v. HERNANDEZ

Cause called and argued by Dallas Sacher appearing for
Appellant and by John A. Gordnier, Deputy Attorney General,
appearing for Respondent. Cause ordered submitted.

H022985 PEOPLE V. VARELA

Cause called and argued by Jonathan Grossman appearing for
Appellant and by Julie Anne Hokans, Deputy Attorney General,
appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, February 18, 2003 (Continued)

H023259 FORTE v. POWELL, et al.

Cause called and argued by Appellant Eugene Forte, appearing in pro per and by James J. Cook appearing for Respondents. Cause ordered submitted.

Premo, J., leaves the bench, and Wunderlich, J., takes the bench.

H023565 TOKUSHIGE v. MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT

Cause called and argued by Mark E. Davis appearing for Appellant and by Joseph Cisneros appearing for Respondent. Cause ordered submitted.

H022912 INGRAM, et al. v. LYNDE

Cause called and argued by Susan Handelman appearing for Appellants and by Louis Riccardo Giuliano appearing for Respondents. Cause ordered submitted.

H024418 ZEN v. NGUYEN

Cause called and argued by Richard Hamm appearing for Appellant. No appearance made on behalf of respondent. Cause ordered submitted. Court adjourns.

H019719 PEOPLE v. TOTARI

The superior court's orders denying defendant's motions to vacate are affirmed. (not published)

(Mihara, J.; I concur: Elia, J.; dissenting opinion by Rushing, P.J.)

Filed February 18, 2003

H022414 PEOPLE v. CATA

(Filed order modifying opinion.) This modification does not affect the judgment. The petition for rehearing is denied. (not published)

(Elia, J.; Rushing, P.J.; Premo, J.)

Filed February 18, 2003

Sixth Appellate District

San Jose, California

Tuesday, February 18, 2003 (Continued)

H023907 EBLEN, et al. v. JOHANSON, et al.

By the Court*:

Appellants' petition for rehearing, or alternatively for modification of the court's opinion, is denied.

Filed: February 18, 2003

*Before Premo, Acting P.J., and Wunderlich, J. (Rushing, P. J. would grant the petition for rehearing, or alternatively for modification of the court's opinion.)

H024895 PEOPLE v. CORSBIE

The judgment is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Wunderlich, J.)

Filed February 18, 2003

WEDNESDAY, FEBRUARY 19, 2003

H024444 In re SABRINA P., et al; DFCS v. MATTHEW P.

The orders of April 18, 2002 are affirmed (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed February 19, 2003

H023742 SANCHEZ v. BAGHAI, et al.

The order awarding attorneys' fees and costs to plaintiff filed September 25, 2001, is affirmed. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Mihara, J.)

Filed February 19, 2003

H023677 SMITH v. STATE OF CALIFORNIA, et al.

The judgment is affirmed. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Mihara, J.)

Filed February 19, 2003

H023978 ADOPTION OF NICHOLAS S.; TIMOTHY M. v. CHRISTOPHER G.

The court's order declaring Nicholas free of Christopher's parental custody and control is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)

Filed February 19, 2003

Sixth Appellate District

San Jose, California

THURSDAY, FEBRUARY 20, 2003

H022369 JOHNSTON v. YEAMANS, et al.

The judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)
Filed February 20, 2003

H023973 PEOPLE v. MENDEZ

The judgment is modified to reduce the section 1202.4
restitution fine to \$200 and to reduce the suspended section
1202.45 restitution fine to \$200. As modified, the judgment is
affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Wunderlich, J.)
Filed February 20, 2003

H023834 PEOPLE v. OLMOS

The judgment is affirmed. (not published)
(Premo, Acting P.J.; We concur: Bamattre-Manoukian, J., Mihara,
J.)
Filed February 20, 2003

H023285 AMERICAN BUILDING AND ROOFING, INC., et al. v. REGISTRAR
OF CONTRACTORS, et al.

The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed February 20, 2003

H024497 PEOPLE v. JOHNSTON

The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Mihara, J.)
Filed February 20, 2003

H024394 PEOPLE v. MOTA

The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J.,
Mihara, J.)
Filed February 20, 2003

H024369 PEOPLE v. FLORES

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed February 20, 2003

Sixth Appellate District

San Jose, California

Thursday, February 20, 2003 (continued)

H023530 PEOPLE v. SEGURA

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Wunderlich, J.)
Filed February 20, 2003

H023744 PEOPLE v. SALAZAR

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Wunderlich, J.)
Filed February 20, 2003

H024507 PEOPLE v. GARCIA

The judgment is modified to reduce the restitution fine and the parole revocation fine to the statutory minimum of \$200. The trial court shall correct the abstract of judgment to reflect this modification and forward a copy of the amended abstract to the Department of Corrections. As so modified, the judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Wunderlich, J.)
Filed February 20, 2003

H024446 PEOPLE v. REINA K.

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Elia, J., Wunderlich, J.)
Filed February 20, 2003

H024176 GRANT v. HEIR

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed February 20, 2003

H023338 PEOPLE v. SANCHEZ

H023556 PEOPLE v. SANCHEZ

The judgment is affirmed. The restitution order is ordered corrected as stated on page 7 of this opinion. (not published)
(Premo, Acting P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed February 20, 2003

Sixth Appellate District

San Jose, California

Thursday, February 20, 2003 (continued)

H023011 PEOPLE v. AVALOS, et al.

The judgment denying appellant Garcia's motion to suppress is affirmed. The judgment imposing the upper-term of four years in case No. S7-09871 is reversed and the case is remanded to the trial court for resentencing. (not published)

(Elia, J.; We concur: Rushing, P.J., Wunderlich, J.)

Filed February 20, 2003

H024445 In re JOHN C.; DFCS v. THERESA C.

By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated December 27, 2002, is hereby vacated. The court by separate letter issued February 20, 2003, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.

Dated: February 20, 2003 Rushing, P.J.

FRIDAY, FEBRUARY 21, 2003

H024354 PEOPLE v. JOSE P.

The judgment is affirmed. (published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed February 21, 2003

H024331 LAW v. CITY OF SUNNYVALE

By the Court*:

Appellant's petition for rehearing is denied.

Filed: February 21, 2003

*Before Bamattre-Manoukian, Acting P.J., Wunderlich, J. and Mihara, J.

H022521 PEOPLE v. UGARTE

The judgment is affirmed. (not published)

(Wunderlich, J.; We concur: Rushing, P.J., Elia, J.)

Filed February 21, 2003

H023600 PEOPLE v. SOLIZ

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)

Filed February 21, 2003

Sixth Appellate District

San Jose, California

Friday, February 21, 2003 (continued)

H023540 PEOPLE v. HERNANDEZ

By the Court:

Appellant's motion to vacate the submission order filed February 3, 2003 is granted. The clerk of this court is directed to file appellant's request for oral argument. The matter will be set for oral argument on a date and time to be advised.

Dated: February 24, 2003 Rushing, P.J.